S.B.Criminal Revision Petition No.920/2006

Samay Singh vs. State of Raj. & Anr.

29.8.2007

HON'BLE MR.JUSTICE G.S.SARRAF

Mr.Maninder Kaushik for petitioner.
Mr.H.V.Nandwana, P.P.
Mr.Karanpal Singh for respondent No.2.

The facts in brief are that the petitioner is facing trial under Sections 498A and 406 IPC in the court of Judicial Magistrate, Hindaun City. After recording the statements of three prosecution witnesses including the respondent No.2 Smt. Gopali an application under Section 216 Cr.P.C. was moved to add charge under Section 494 IPC. Learned trial court, however, by impugned order dated 28.7.2006 took cognizance against the petitioner of the offence under Section 494 IPC. Aggrieved by this order, the petitioner has filed this revision petition.

Heard learned counsel for the petitioner and learned P.P.

The application under Section 216 Cr.P.C. was filed for adding charge under Section 494 IPC but the trial court instead of passing proper order on this application, passed the order taking cognizance against the petitioner of the offence under Section 494 IPC. As cognizance had already been taken the court was expected to pass order with regard to adding of the charge. The

order of the trial court thus deserves to be set aside.

Consequently, the revision petition is allowed and the impugned order dated 28.7.2006 is set aside. The trial court is directed to pass fresh proper order on the application filed under Section 216 Cr.P.C. after hearing the concerned parties.

(G.S.Sarraf),J.

bairwa